

§ 585.105 Consultation.

(a) *Consultation with other agencies.* The Commission may consult with, seek the cooperation of, or make recommendations to other appropriate agencies prior to taking any action under this part.

(b) *Request for resolution through diplomatic channels.* Upon the filing of a petition, or on its own motion when there are indications that conditions unfavorable to shipping in the foreign trade of the United States may exist, the Commission may notify the Secretary of State that such conditions apparently exist, and may request that the Secretary seek resolution of the matter through diplomatic channels. If request is made, the Commission will give every assistance in such efforts, and the Commission may request the Secretary to report the results of such efforts at a specified time.

Subpart B—Production of Information

§ 585.201 Information orders.

In furtherance of the purposes of this part—

(a) The Commission may, by order, require any person (including any common carrier, tramp operator, bulk operator, shipper, shippers' association, ocean freight forwarder, or marine terminal operator, or any officer, receiver, trustee, lessee, agent, or employee thereof, to file with the Commission a report, answers to questions, documentary material, or other information which the Commission considers necessary or appropriate;

(b) The Commission may require a report or answers to questions to be made under oath;

(c) The Commission may prescribe the form and the time for response to a report or answers to questions.

§ 585.202 Type of information.

In order to aid in the determination of whether conditions unfavorable to shipping in the foreign trade of the United States exist, or in order to aid in the formulation of appropriate regulations subsequent to a finding that conditions unfavorable to shipping in the foreign trade of the United States

exist, the Commission may, when it deems necessary or appropriate, and without further proceedings, order any:

(a) Owner, operator, or charterer in the affected trade to furnish any or all of the following information:

(1) Statistics for a representative period showing passengers or cargo carried to and from the United States in the affected trade on vessels owned, operated or chartered by it, by type, source, value, and direction;

(2) Information for a representative period on the activities of vessels owned, operated, or chartered, which shall include sailings to and from United States ports, costs incurred, taxes or other charges paid to authorities, and subsidies or other payments received from foreign authorities;

(3) Information for a specified future period on the prospective activities of vessels which it owns, operates or chartered or plans to own, operate or charter, to and from United States ports, which shall include projected sailings, anticipated costs, taxes or other charges to be paid to authorities, and expected subsidies or other payments to be received from foreign authorities; and

(4) Such other information that the Commission considers relevant to discovering or determining the existence of general or special conditions unfavorable to shipping in the foreign trade of the United States.

(b) Shipper, shippers' association, ocean freight forwarder, or non-vessel-operating common carrier in the affected trade to furnish any or all of the following information:

(1) Information for a representative period showing shipments made, type of cargo, commodity, carrier and vessel on which shipment was made, including furnishing copies of bills of lading and other shipping documents;

(2) Information relating to the application for, grant of, or securing of waivers or other exemption from requirements imposed by foreign governments that cargo move on national-flag, conference, or non-conference vessels;

(3) Amount of brokerage, freight forwarder compensation or other charges collected or paid in connection with shipments in the affected trade; and

(4) such other information that the Commission considers relevant to discovering or determining the existence of general or special conditions unfavorable to shipping in the foreign trade of the United States.

(c) Any marine terminal operator to furnish any or all of the following information:

(1) Marine terminal facilities agreements, whether or not on file with the Commission, into which it has entered with any ocean carrier in the affected trade;

(2) Information for a representative period showing the difference between the rates agreed to for use of its facilities by any ocean carrier serving the affected trade pursuant to an agreement authorizing preferential treatment or lease terms and those rates which would otherwise have applied to such services or leases.

§ 585.203 Failure to provide information.

(a) A person who fails to file a report, answer, documentary material, or other information required under this subpart shall be liable to the United States Government for a civil penalty of not more than \$5,000 for each day that the information is not provided.

(b) The Commission may, when there is a failure to produce any information ordered produced under § 585.201, make appropriate findings of fact and inferences, including the inference that conditions unfavorable to shipping in the foreign trade of the United States do exist.

Subpart C—Conditions Unfavorable to Shipping

§ 585.301 Findings.

For the purposes of this part, conditions created by foreign governmental action or competitive methods of owners, operators, agents or masters of foreign vessels are found unfavorable to shipping in the foreign trade of the United States, if such conditions:

(a) Impose upon vessels in the foreign trade of the United States fees, charges, requirements, or restrictions different from those imposed on other vessels competing in the trade, or preclude vessels in the foreign trade of the

United States from competing in the trade on the same basis as any other vessel;

(b) Reserve substantial cargoes to the national flag or other vessels and fail to provide, on reasonable terms, for effective and equal access to such cargo by vessels in the foreign trade of the United States;

(c) Are discriminatory or unfair as between carriers, shippers, exporters, importers, or ports or between exporters from the United States and their foreign competitors and which cannot be justified under generally accepted international agreements or practices and which operate to the detriment of the foreign commerce or the public interest of the United States;

(d) Restrict or burden a carrier's intermodal movements or shore-based maritime activities, including terminal operations and cargo solicitation; forwarding and agency services; non-vessel-operating common carrier operations; or other activities and services integral to transportation systems; or

(e) Are otherwise unfavorable to shipping in the foreign trade of the United States.

Subpart D—Petitions for Section 19 Relief

§ 585.401 Who may file.

Any person who has been harmed by, or who can reasonably expect harm from, existing or impending conditions unfavorable to shipping in the foreign trade of the United States, may file a petition for relief under the provisions of this part.

§ 585.402 Filing of petitions.

All requests for relief from conditions unfavorable to shipping in the foreign trade shall be by written petition. An original and fifteen copies of a petition for relief under the provisions of this part shall be filed with the Secretary, Federal Maritime Commission, Washington, DC 20573. The petition shall be accompanied by remittance of a \$177 filing fee.

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